

Office Action Summary

Application No.

09/970,587

Applicant(s)

PITTS ET AL.

Examiner

Marcus Charles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15, 16, 19 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15, 16, 19 and 21-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

This action is responsive to the amendment filed 03-19-2003, which has been entered.

Claims 15, 16, 19 and 21-27 are currently pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 15-16, 19, 21-24 and 26 as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over JP('8-247221) in view Miranti, Jr.('662). JP('8-247221) discloses a belt (1/10) comprising a plurality of cords (3/12) aligned generally parallel to the longitudinal direction of the belt, a jacket (2/11) over the cords; the jacket includes a plurality of grooves (4/13) spaced along the length of the belt on at least one side of the jacket and are disposed at an oblique angle to the longitudinal axis of the belt. JP('8-247221) does not disclose the spacing between the grooves vary along the length of the belt. Miranti, Jr. discloses a belt (figs. 8-9) comprising a plurality of grooves (28) spaced at varying distances along the length of the belt in order to reduce noise during operation (col. 6, lines 10-14). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to arrange the spacing of the grooves on the belt of JP('8-247221) so that the spacings vary along the length of the belt in view of Miranti, Jr. in order to reduce noise during operation.

In claim 24, each groove includes line segment with respect to the longitudinal axis of the belt (line segment to the left and right of the longitudinal axis).

Regarding claim 15, the method steps would be inherently included during the manufacturing of the belt of JP('8-247221) in view Miranti, Jr.('662).

In claims 16 and 23, note Miranti, Jr. discloses at least three sequential spacings are different from each other.

3. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP('8-247221). JP(8-247221) does not disclose that each groove comprises a plurality of line segment such that each line segment of a groove is at a different angle with the longitudinal direction of the belt. It would have been obvious to one of ordinary skill in the art as a matter of design choice to make the groove from different segments such that one segment is at a different angle with the longitudinal direction of the belt, since applicant has not disclosed that such configuration solves any specific stated problem or it is for any specific purpose compared to the other configurations disclosed.

Therefore, it appears that the invention would perform equally well with the grooves segments at the same angle with the longitudinal direction.

4. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP('8-247221) in view of Miranti, Jr. as applied to claim 19 and further in view of Westhoff ('389). JP('8-247221) is silent concerning the materials of the jacket (body) Westhoff discloses a belt (102) made of polyurethane elastomer (96) because polyurethane elastomer is easy to cast or mold while maintaining flexible, high tear strength and good abrasion resistance. Therefore, it would have been obvious to one of ordinary skill in the

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art at the time of the invention to further modify the jacket of the belt of JP('8-247221) so that it is made from polyurethane elastomer in view of Westhoff so that the belt can be manufactured easily while maintaining high tear strength and good abrasion resistance, flexibility and low elongation properties.

Response to Arguments

5. Applicant's arguments filed 03-19-2003 have been fully considered but they are not persuasive.

6. In respond to applicant's arguments that JP (8-247221) reference does not teach or suggest that the groove are formed art varying intervals along the length of the belt and that the is not motivation to make the combination with Miranti, Jr. Examiner disagrees with applicant's argument. It should be noted that if JP (8-247221) had suggested the varying distance between the grooves, the rejection would have been one of anticipation and not of obviousness. In an obviousness rejection, the motivation does not come from the primary reference but from the secondary reference. In light of the foregoing, it is concluded that the examiner has established a prima facie case of obviousness with regards to rejected claims and the combination of JP (8-247221) and Miranti, Jr. are properly obvious. In that regard, it is noted that as the court review indicated that the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071; 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

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Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case the prior art relied upon contains the suggestion and motivation to make an obviousness type rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (703) 305-6877. The examiner can normally be reached on Monday -Thursday 7:30 am-600 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703) 308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.



Marcus Charles
Primary Examiner
Art Unit 3682
December 9, 2008